

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 1736 OF 2022
WITH
LEAVE PETITION NO. 324 OF 2021
WITH
COURT RECEIVER'S REPORT NO. 489 OF 2021
IN
COMMERCIAL IP SUIT NO. 21 OF 2022

Unilever PLC & Anr.

...Applicant/Plaintiff

Versus

Ashok Kumar & Anr.

...Defendants

- Mr. Vinod Bhagat and Mr. Atif Sayyed i/by Vinod Bhagat, for Applicant/Plaintiff.

CORAM : MANISH PITALE, J

DATE : 27th MARCH, 2023.

P. C. :

1. By order dated 16th November, 2021, this Court granted *ex-parte* ad-interim reliefs in favour of the Plaintiffs. The order was executed and the Court Receiver's Report was submitted, which was taken on record.

2. It was during the course of execution of the order of this Court that the Plaintiffs became aware of the details of the Defendants, as the present proceedings were initiated as John Deo action on the part of the Plaintiffs. Consequently, the Plaintiff applied for and was granted permission to amend the pleadings, in order to incorporate the details of the Defendant as Defendant No. 2 and also

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for executing the order of this Court in respect of the said Defendant. The Defendant was served with the papers.

3. In that light, on 11th October, 2022, this Court considered the Leave Petition. Defendants had chosen not to appear, despite service. The Leave Petition was allowed and in that backdrop, this Court granted further ad-interim reliefs, pertaining to the cause of action of passing off. It was directed by the said order that the ad-interim reliefs shall continue to operate until further orders and that the present application would be kept for hearing/disposal.

4. The Defendants were intimated repeatedly about the listing of the present application from time to time.

5. Affidavits of service were placed on record on behalf of the Plaintiffs. But, Defendants have chosen not to appear before this Court. In this backdrop, the learned Counsel for the Plaintiff is pressing for the ad-interim reliefs to be made absolute and for the application to be allowed.

6. This Court has considered the material on record, in the backdrop of the contentions raised by the learned Counsel for the Plaintiff. The present proceeding pertain to counterfeit products of the Defendant, as a comparison of the impugned product with those of the Plaintiffs clearly shows that each and every feature, including the

details of the manufacturer etc. have been copied by the Defendants. This aspect was specifically referred to in the order dated 16th November, 2021 passed by this Court, while granting *ex-parte* ad-interim reliefs. A perusal of the comparison of the rival products would show that the Defendants copied each and every detail of the registered trademark, as well as the original artistic work of the Plaintiffs and even the corporate name, thereby indicating that the whole intention of the Defendants was to illegally take advantage of the goodwill of the Plaintiff in respect of the said trademark and copyright.

7. This Court is convinced that the Plaintiffs have placed sufficient material on record to demonstrate that the ad-interim reliefs deserve to be made absolute. Unless such an order is passed, the Plaintiffs are likely to continue to suffer grave and irreparable loss, thereby indicating that the balance of convenience is also in favour of the Plaintiff.

8. In view of the above, the ad-interim reliefs granted by this Court are made absolute. Consequently, the application is allowed in terms of prayer clauses (a), (b), (c) and (e). The said interim reliefs shall continue to operate during the pendency of the suit.

9. In view of the above, the Court Receiver's Report is

disposed of and the Court Receiver is discharged, without passing up of accounts.

10. Insofar as the service of Writ of Summons is concerned, although the report states that the Writ of Summons is not served due to insufficient address, the learned Counsel for the Plaintiff submits that when an attempt was made to serve the Writ of Summons, Defendants had refused to accept the same. It is stated that an affidavit of service to that effect was placed on record, but it does not appear to be traceable. The Plaintiff to take appropriate steps in the matter, within a period of four weeks from today.

(MANISH PITALE, J.)